

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.No.1119 of 2020

and CRL.M.P.No.7755 of 2020

Mohamed Ariff
S/o.Mohamed Ali

.. Petitioner/Appellant/
Accused

/versus/

Haritha Traders,
rep.by its Partner,
N.Sathiyamoorthy,
204, Annamalai Complex,
Sathy Main Road,K.Kulam,
Erode-638 004.

.. Respondent/Respondent
Complainant

Prayer: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure, filed against the Judgment made in Crl.A.No.99 of 2019 in S.T.C.No.554/2017 dated 03.03.2020 by the Hon'ble Principal Sessions Judge, Erode and call for the records and set aside the same.

For Petitioner : Mr.S.N.A.Hussainy

For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is filed against the Judgment made in Crl.A.No.99 of 2019 in S.T.C.No.554/2017 dated 03.03.2020 by the Hon'ble Principal Sessions Judge, Erode and call for the records and set aside the same.

2. The case of the prosecution is that the petitioner is an accused in a private complaint filed by the respondent for the offence under Section 138 of Negotiable Instruments Act, 1881. The Trial Court, by judgment dated 22.02.2019, had convicted the petitioner in S.T.C.No.554 of 2017 and sentenced him to undergo one year simple imprisonment and directed the petitioner to pay a sum of Rs.1,65,000/- as compensation. Aggrieved against the same, the petitioner had filed C.A.No.99 of 2019 before the learned Principal Sessions Judge, Erode. The learned Principal Sessions Judge, by Judgment dated 03.03.2020, dismissed the appeal confirming the conviction imposed on the petitioner by the Trial Court. Against which, the present revision petition has been filed.

3. The learned counsel for the petitioner would submit that the Trial Court, without hearing the petitioner as well as the respondent, had reserved the case on 27.01.2020 for Judgment. Thereafter, on perusal of the records and the lower Court Judgment, the learned Principal Sessions Judge had dismissed the appeal confirming the judgment of the Trial Court which is against law.

4. Considering the submissions, it is seen that the petitioner had preferred an appeal under Section 374(2) of Cr.P.C. As per Section 381 of Cr.P.C., it is clear that "an appeal to the Court of Session or Sessions Judge shall be heard by the Sessions Judge or by an Additional Sessions Judge". In this case, the lower Appellate Court, without hearing the petitioner as well as the respondent, had dismissed the appeal.

5. In view of the same, this Court set aside the judgment of the Lower Appellate Court dated 03.03.2020, since it is not as per law. Hence, the Lower Appellate Court is directed to issue notice to the petitioner as well as the respondent and decide the appeal on merits, after hearing both parties.

6. With the above observations, the Criminal Revision Petition stands allowed. Consequently, connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

ssb

To:

1.The Principal Session Judge, Erode.

2.The Judicial Magistrate, Fast Track Court No.1, Erode.

+1 cc to M/S S.N.A.HUSSAINY Advocate Sr.39848

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NR(CO)
RVR 19/12/2020